

LINE ITEM VETO ACT

JANUARY 27, 1995.—Ordered to be printed

Mr. SOLOMON, from the Committee on Rules,

submitted the following

R E P O R T

together with

ADDITIONAL AND DISSENTING VIEWS

[To accompany H.R. 2]

[Including cost estimate of the Congressional Budget Office]

The Committee on Rules, to whom was referred the bill (H.R. 2) to give the President item veto authority over appropriation Acts and targeted tax benefits in revenue Acts, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 5, line 6, strike “which—” and strike lines 7 through 12 and insert the following:

which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: “That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in

a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on _____", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on _____", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

Page 7, strike lines 13 through 17, and insert the following new subsection:

(c) INTRODUCTION OF RESCISSION/RECEIPTS DISAPPROVAL BILLS.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 3.

Page 7, after line 17, insert the following new section:

(d) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order

against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion through its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. After general debate the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

Page 7, line 18, strike “(d)” and insert “(e)”.

Page 8, line 22, strike “(e)” and insert “(f)”.

Page 8, lines 23 and 24, and on page 9, lines 4 and 5, strike “or the House of Representatives” each place it appears.

PURPOSE OF LEGISLATION

H.R. 2 provides for a Presidential line item veto to rescind all or part of any discretionary budget authority or veto any targeted tax benefit that meets the specifications of this Act. H.R. 2 outlines specific procedures for consideration by the House and Senate of disapproval of such a special Presidential message.

COMMITTEE CONSIDERATION

On January 24 the Committee held an informal briefing on Section 5 of H.R. 2 (which deals with consideration of a disapproval bill in the House and the Senate). Stanley Bach, senior specialist in the legislative process at CRS, provided members and staff with general background and options for applying expedited procedures to consideration of a bill to disapprove a Presidential rescission or targeted tax break veto message.

The Committee met on January 26, 1995 to mark-up H.R. 2. The Committee ordered H.R. 2 reported with amendments by a record vote of 9–4. During the mark-up two amendments pertaining to expedited procedures were offered en bloc and agreed to by voice vote.

An amendment in the nature of a substitute was rejected by a record vote of 4–9.

BACKGROUND

In the perennial discussion about the need to reduce the mounting federal debt, the line item veto has been a frequent and controversial topic of debate. In public opinion surveys, most Americans consistently voice support for the line item veto, a budgeting tool that is already granted in some form to 43 of the nation's governors. In recent Congresses, the House has considered several variations on the theme of enhancing Presidential authority in the budget process by allowing for expedited procedures in cancelling specific federal spending or targeted tax benefits. But while the House has approved several measures under the guise of tightening control over spending, it has consistently missed opportunities to implement an effective item veto. It is interesting to note that the first line item veto proposal introduced in the House occurred in 1876.

In the 103rd Congress, the House twice considered and approved legislation granting the President "expedited rescission" authority over appropriations and targeted tax measures, first in the form of H.R. 1578 (which passed the House 258–157 on April 29, 1993) and then again in the form of H.R. 4600 (which passed the House 342–69 on July 14, 1994). The expedited procedures established by these bills would require the Congress to vote on approval of the President's rescission within a specified period, a marginal improvement over current law, which essentially allows the Congress to ignore a Presidential rescission.

Although H.R. 4600 began as the identical text to H.R. 1578, it was amended on the House floor to make the expedited procedures permanent, allow the President to utilize the procedures at any time, allow 50 representatives or 15 senators to offer a motion to strike from a rescissions package an individual proposal and allow the President to specify that the savings go to deficit reduction. Both H.R. 1578 and H.R. 4600 died without final action in the Senate upon adjournment of the 103rd Congress.

H.R. 1578 and H.R. 4600 would have made incremental improvements in the budget process, by requiring Congress to vote on rescissions under expedited procedures, but neither bill would have established a true line item veto. By placing the burden of action on affirming the President's rescissions, rather than disapproving them, both H.R. 1578 and H.R. 4600 would have allowed a simple majority of either House to block the President's rescissions.

On April 29, 1993 Representative Castle of Delaware offered a substitute for H.R. 1578 to subject presidential rescissions to a congressional disapproval process. The amendment was first successfully amended by Representative Michel of Illinois, by a vote of 257 to 157, to make targeted tax benefits subject to presidential veto authority. However, the Castle amendment as amended was subsequently rejected by a vote of 198 to 219.

On July 14, 1994, Representative Solomon of New York offered a substitute for H.R. 4600 to make presidential vetoes of both budget authority and targeted tax benefits subject to a congress-

sional disapproval process. This time the amendment lost by an even closer vote of 205 to 218.

H.R. 2, a bi-partisan bill introduced by Representatives Clinger, Blute, Neumann and Parker on the opening day of the 104th Congress, is virtually identical to the Solomon, line item veto substitute that was narrowly rejected in the second session of the 103rd Congress. H.R. 2 requires that, unless the Congress acts within a specified period to disapprove the President's rescissions, those rescissions will automatically take effect and the identified spending or targeted tax benefit will be cancelled. If the Congress disapproves the President's rescissions, the President would be likely to veto that disapproval, forcing the Congress to muster two thirds of both Houses to override that veto. In this way, it becomes more difficult to sustain spending or targeted tax breaks that the President has attempted to cancel. The scales are tilted toward cutting spending—which is the purpose of the line item veto.

While no one would contend that a line item veto on its own will be enough to restrain spending and bring the federal budget into balance, a recent GAO report indicates that this type of fiscal discipline could have a significant impact upon federal spending. In a January 1992 report, the GAO concluded that, although the effectiveness of a Presidential line item veto could vary by Administration and spending areas of the budget:

If Presidential line item veto/line item reduction authority had been applied to all items to which objections were raised in the Statements of Administration Policy during fiscal years 1984 through 1989, spending could have been reduced by amounts ranging from \$7 billion in 1985 to \$17 billion in 1987, *for a 6-year total of about \$70 billion*. This would have reduced federal deficits and borrowing by 6.7 percent, from the \$1059 billion that actually occurred during that period to \$989 billion. (Emphasis added.)

H.R. 2 is a milestone in the budget reform process. For all the rhetoric in past years, the House has never demonstrated its commitment to an effective line item veto—until now. H.R. 2 marks the beginning of a monumental effort to change the way Congress does business and restore public confidence in its ability to manage the nation's finances.

The Committee notes with approval President Clinton's announcement, as recently as this week in his State of the Union address, that he will now support a line item veto, after having favored the expedited rescission alternative instead over the past two years. With the President's full support this can be made a truly effective instrument for pruning both wasteful spending and special interest tax breaks.

PROCEDURES UNDER CURRENT LAW

Section 1012 of the Congressional Budget and Impoundment Control Act of 1974 provides that the President may submit to Congress proposed rescissions (the permanent cancellation of previously appropriated budget authority) throughout the year. If both the House and the Senate have not approved a proposed rescission

within 45 days of its submission, the funds affected are automatically released to be spent.

Section 1017 of the Budget Act further provides expedited procedures which allow one-fifth of either chamber of Congress to move to discharge the President's rescission proposal from the Appropriations Committee and bring it to the floor for a vote if the Committee has not acted on it within 25 days of continuous session. However, under Section 904 of the Budget Act these provisions are "an exercise of the rulemaking power of the House of Representatives and the Senate," meaning that they can be waived by the vote of a simple majority. The difficulty of exercising these expedited procedures was highlighted in April of 1992, when Members of the House attempted to invoke sections 1012 and 1017 of the Budget Act to obtain votes on 96 of President Bush's rescissions. In a successful attempt to block this move, the rules were waived and the votes on President Bush's original rescissions never occurred. While the House did consider and pass an alternate package of rescissions, Members were denied the opportunity to debate and vote on the original rescission message.

ANALYSIS OF LEGISLATION

H.R. 2 establishes expedited procedures for consideration of a special rescission or veto message by the President. It sets forth a detailed timetable of action by the Congress (including specified procedures for Senate floor debate and action) in considering a rescission or receipts disapproval bill triggered by such a special Presidential message. The Rules Committee amendments to H.R. 2 expressly define a disapproval bill as one that encompasses an entire special message of the President, disapproving each rescission of discretionary budget authority or each veto of targeted tax benefits sought by the President. This amendment to H.R. 2 is designed to ensure that there is no confusion about the content of such a disapproval bill. The Congress must vote on disapproval of a President's *entire* rescission or targeted tax benefit veto package. The specific outline of what a disapproval bill must include ensures that no unrelated matter could be incorporated into this process and members could not "cherry-pick" from a President's special message.

The term targeted tax benefit is specifically defined in H.R. 2 to mean any provision of a revenue act that the President determines would provide a federal tax benefit to 5 or fewer taxpayers. Calendar days of session in H.R. 2 are defined as those days in which both Houses of Congress are in session.

Under the provisions of H.R. 2, the President must notify the Congress of his intent to rescind spending or veto a targeted tax break within 20 calendar days of the date of enactment of a regular or supplemental appropriation act, or a joint resolution making continuing appropriations providing such budget authority or a revenue act containing a targeted tax benefit. The President must submit to the Congress a separate rescission message for each appropriation act and for each revenue act subject to veto.

The Presidential message must specify: (1) the amount of budget authority rescinded or the targeted tax provision vetoed; (2) any account, department or establishment of the government to which the

budget authority is available for obligation and the specific project or government functions involved; (3) the reason for the President's decision to rescind that budget authority or veto that tax benefit; (4) the estimated fiscal, economic and budgetary effect of the President's action; and (5) the circumstances bearing upon the President's decision to seek the rescission or veto and the likely impact of this action on relevant projects, purposes and programs.

Any such special Presidential message shall be transmitted to each House of Congress on the same day, referred to the appropriate committees of the House and the Senate and printed as a document of each House. The special message shall also be printed in the first published Federal Register after transmittal.

The Rules Committee amendment to H.R. 2 outlines specific expedited procedures in the House to guarantee the opportunity for a vote on a disapproval bill. The purpose of these procedures is to ensure that Members of Congress have a means to express their disapproval of a President's rescissions or veto of a targeted tax benefit. These procedures do not *require* a vote; they allow for one if members seek one and fulfill the established requirements.

Specifically, the Rules Committee amendment to H.R. 2 provides that, in order to qualify for expedited procedures, a disapproval bill must be introduced in the House within 3 days of submission of a Presidential special message. The bill would be referred to the appropriate committee (either Appropriations or Ways & Means as the case may be). The committee would have 8 days in which to report the disapproval bill. This period is granted to allow adequate time for the committee to consider the bill, order it reported and provide the required 3-day opportunity for members to file views.

If the relevant committee fails to report the disapproval bill within that time-frame, any Member in support of the disapproval bill may announce his or her intention to offer a motion to discharge the bill on the following day. This sets in motion a process whereby a majority of the House would have to vote three times (on the motion to discharge, the motion to consider and passage of the bill) in order to approve the disapproval bill and send it to the Senate. Under these procedures, debate is limited, and no amendments are allowed.

The Rules Committee amendment to H.R. 2 also provides procedures for floor consideration of the disapproval bill if the relevant committee *does* report the disapproval bill in timely fashion. These procedures would require the House to pass two hurdles: the first being a vote on the motion to consider and the second being passage of the disapproval bill.

In addition, the amendment provides that all points of order against the disapproval bill and its consideration shall be waived to ensure that parliamentary maneuvering on the floor does not block members' opportunity to have a vote on the President's rescissions or targeted tax benefit vetoes.

H.R. 2 also provides that spending and targeted tax breaks will be deemed to have been cancelled if the Congress does not act to disapprove the President's special rescission or veto message within 20 calendar session days. If the Congress does act, the President would have 10 days (not including Sundays) during which to exercise his veto authority of such a rescission or receipts disapproval

bill, the same period as is granted to a President by the constitution for a traditional veto. Should he exercise that authority, both Houses of Congress would have an additional 5 calendar days in which to override the veto by two-thirds majority.

If the second session of a Congress has adjourned sine die before the expiration of the time period established under this act, H.R. 2 allows the President's special rescission or veto message to be deemed to have been retransmitted on the first day of the next Congress. The review period established by this act shall commence after that day. If the first session of a Congress has adjourned sine die in the midst of this timetable, H.R. 2 provides that the clock shall stop ticking and resume on the first day of the second session of the Congress.

H.R. 2 outlines specific procedures for consideration in the Senate of any rescission/receipts disapproval bill received from the House. Debate in the Senate on such a bill and related debatable motions and appeals shall be limited to no more than ten hours, with debate on any debatable motion or appeal limited to one hour.

The bill further specifies that it shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the tax benefit transmitted by the President under this Act. H.R. 2 also specifies that it shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill. Finally, H.R. 2 specifies that the two above described points of order may only be waived or suspended in the Senate by a three-fifths vote of its members.

An analysis of the draft bill prepared for this committee by the American Law Division of the Congressional Research Service and dated December 30, 1994 concludes, despite contentions by critics to the contrary, that the line item veto as established by H.R. 2 is constitutional. The CRS analysis explores the precedents of constitutional law with respect to delegation of Congressional authority, concluding that—

[T]he precedents establish no constitutional barrier to delegation of a power to the President, or in fact to any other permissible recipient of delegated authority, to set aside or void an act of Congress.

The CRS report goes on to assert that—

[N]othing in delegation doctrine suggests that Congress may not delegate power over appropriations or taxes, and in fact the breadth of the language and the results in delegation cases provide more than adequate support for the conclusion that delegation in this context is proper under the constitution.

In noting that there must be some standards and clear Congressional intent accompanying a delegation of Congressional power, the CRS report notes that—

[W]hile insisting on standards, the [Supreme] Court has contented itself with the most minimal of policy direction and statement of goals. It has emphasized practicality * * * Apparently, general statements of

policy that Congress hopes to see effectuated will suffice.

Ultimately, the CRS report concludes that—

[I]t seems, therefore, on the basis of textual analysis and precedent that it would be constitutionally permissible for Congress to delegate to the President the power to reduce or omit various items from appropriations acts under the terms set out in the draft bill.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 provides that the bill's short title is the "Line Item Veto Act."

Sec. 2. Line item veto authority

Section 2 specifies that the President may rescind all or part of any discretionary budget authority or veto any targeted tax benefit if: the President determines that this action would help reduce the Federal budget deficit; will not impair any essential government functions; and will not harm the national interest. This rescission or veto would take effect if: the President notifies Congress of such action by a special message not later than 20 calendar days (not including Saturdays, Sundays or holidays) after the date of enactment of a regular or supplemental appropriation act or a joint resolution making continuing appropriations providing such budget authority or a revenue act containing a targeted tax benefit. This section further specifies that the President shall submit a separate rescission message for each appropriation act and for each revenue act affected by this action.

Sec. 3. Line item veto effective unless disapproved

Section 3 establishes that a Presidential rescission or veto action as outlined in section 2 will take effect, cancelling the spending and/or targeted tax benefit specified unless a rescission/receipts disapproved bill is enacted into law within the period specified. In order to disapprove a rescission or targeted tax veto, within 20 calendar session days of receipt of a Presidential rescission or veto message, both Houses of Congress must complete action on a rescission/receipts disapproved bill and present such a bill to the President. The President will then have an additional ten days (not including Sundays) to exercise his authority to sign or veto the rescission/receipts disapproval bill. If the President vetoes the rescission/receipts disapproval bill then both Houses of Congress have an additional five calendar days of session in which to override the veto.

This section further specifies that if the last session of Congress adjourns sine die before this period expires, the rescission or veto shall not take effect but the message will be deemed to have been retransmitted on the first day of the succeeding Congress and the entire review period as specified will run beginning after that day.

Sec. 4. Definitions

Section 4 defines “rescission/receipts disapproval bill” as a bill which: only disapproves rescissions of discretionary budget authority, in whole, rescinded or only disapproves vetoes of any targeted tax benefits as transmitted in a special message by the President. The Rules Committee amendment to this section includes specific language for the text of such disapproval bills. This section further defines “calendar days of session” as only those days in which both Houses of Congress are in session. It defines “targeted tax benefit” as any provision of a revenue act which the President determines would provide a federal tax benefit to 5 or fewer taxpayers.

Sec. 5. Congressional consideration of line item vetoes

Section 5 specifies the content of the special message the President shall submit if he intends to rescind any budget authority or veto any targeted tax benefit. Such a special message must include the amount of budget authority rescinded or the provision vetoed; identification of accounts, departments or other government establishments and specific projects or government functions impacted; the reasons for his decision to take this action; estimated fiscal, economic and budgetary effect of this action; considerations bearing upon his decision to take this action and the estimated effect this action will have upon related objects, purposes and programs. This section also outlines procedures for transmitting the special message to both Houses of Congress and printing the message in the Federal Register.

The Rules Committee amendment establishes a series of expedited procedures for House consideration of a disapproval bill. In order to qualify for these expedited procedures, a disapproval bill must be introduced in the House not later than 3 calendar days of session after the submission of a special Presidential message. If the committee to which such a disapproval bill is referred fails to report the bill within 8 calendar days of session after its introduction, a Member in support of the disapproval bill may announce his or her intention to make a motion to discharge the bill from committee after that legislative day. Such a motion to discharge is highly privileged and debate is limited to one hour, equally divided and controlled by a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. It is not in order to move to reconsider the vote on the motion.

The Rules Committee amendment to this section further provides that once the disapproval bill is reported or the committee is discharged, a motion to resolve the House into the Committee of the Whole is in order, and all points of order against the bill and its consideration are waived. This motion is highly privileged and is not debatable. The previous question shall be considered as ordered on that motion through its adoption without intervening motion. A motion to reconsider is not in order.

If that motion is agreed to, the first reading is dispensed with and general debate shall be limited to 2 hours, equally divided and controlled, without intervening motion. After the debate the committee shall rise and report the bill to the House, the previous question shall be considered as ordered to final passage without in-

tervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

Appeals from the decisions of the Chair relating to the way House rules are applied to this procedure shall be decided without debate. The House may not consider more than one bill or more than one motion to discharge with respect to any given presidential special message. Except as stated in H.R. 2, the rules of the House shall apply to consideration of any disapproval bill as described in this act.

Finally, Section 5 outlines specific procedures for consideration of such a disapproval bill in the Senate. It establishes points of order against consideration of unrelated matters in context with consideration of the bill, and against consideration of any amendments to the bill, and provides for waivers of these points of order in the Senate only by a three-fifths vote.

MATTERS REQUIRED UNDER THE RULES OF THE HOUSE

COMMITTEE VOTE

Clause 2(l)(2)(B) of rule XI requires, with respect to each roll call vote on a motion to report any measure or matter of a public character, and on any amendment offered to the measure or matter, each committee report include the total number of votes cast for and against, and the names of those members voting for and against.

On January 26, 1995, the Committee ordered H.R. 2 reported to the House with amendments by a record vote of 9–4, a quorum being present.

Rules Committee Roll Call No. 31

Date: January 26, 1995.

Measure: H.R. 2, Line Item Veto Act.

Motion By: Mr. Moakley.

Summary of Motion: Amendment in the nature of a substitute to provide for an expedited rescission process subject to congressional approval (as opposed to disapproval).

Results: Rejected, 4 to 9.

Vote by Member: Quillen—Nay; Dreier—Nay; Goss—Nay; Linder—Nay; Pryce—Nay; Diaz-Balart—Nay; McInnis—Nay; Waldholtz—Nay; Moakley—Yea; Beilenson—Yea; Frost—Yea; Hall—Yea; Solomon—Nay.

Rules Committee Roll Call No. 32

Date: January 26, 1996.

Measure: H.R. 2, Line Item Veto Act.

Motion By: Mr. Quillen.

Summary of Motion: Order bill reported to the House as amended with recommendation that it pass.

Results: Adopted, 9 to 4.

Vote by Member: Quillen—Yea; Dreier—Yea; Goss—Yea; Linder—Yea; Pryce—Yea; Diaz-Balart—Yea; McInnis—Yea; Waldholtz—Yea; Moakley—Nay; Beilenson—Nay; Frost—Nay; Hall—Nay; Solomon—Yea.

COMMITTEE COST ESTIMATE

Clause 2(l)(3)(B) of rule XI requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended, and, when practicable with respect to estimates of new budget authority, a comparison of the total estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 7(a) of rule XIII requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

H.R. 2 would have no direct cost to the federal government.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Clause 2(l)(3)(C) of rule XI requires each committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted. The following is the CBO cost estimate as required:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, January 27, 1995.

Hon. GERALD B.H. SOLOMON,
Chairman, Committee on Rules, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2, the Line Item Veto Act, as ordered reported by the House Committee on Rules on January 26, 1995.

H.R. 2 would grant the President the authority to rescind all or part of any discretionary budget authority or veto any targeted tax benefit (defined as any provision of a revenue bill that provides a federal tax benefit to five or fewer taxpayers). To exercise this authority, the President must transmit a special message to both houses of Congress specifying each amount rescinded (or provision vetoed) from appropriations (or tax provisions) within a particular bill just signed by the President. Furthermore, the message must include the governmental functions involved, the reasons for the rescission or veto, and—to the extent practicable—the estimated fiscal, economic, and budgetary effect of the action. This message must be transmitted within 20 calendar days (excluding Saturdays, Sundays, and holidays) of enactment of the legislation containing the vetoed items. All budget authority rescinded would be cancelled and any targeted tax benefit vetoed would be repealed unless Congress, within 20 working days, passes a rescission/receipts disapproval bill to restore the provisions. Such a rescission/receipts disapproval bill would overturn all of the rescissions or vetoes proposed by the President in a single special message to the Congress.

That disapproval bill would itself be subject to veto, with the usual two-thirds vote in each house required to override.

The budgetary impact of this proposal is uncertain, because it would depend on the manner in which the line item veto is used by the President and the success of the Congress in overriding vetoes; however, potential savings or costs are likely to be relatively small. Discretionary spending currently accounts for only one-third of total outlays and is already tightly controlled. Mandatory spending, by far the larger part of the budget, is not affected by H.R. 2.

By itself, this bill would not affect direct spending or receipts, so there would be no pay-as-you-go scoring under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Enactment of this legislation would not directly affect the budgets of state and local governments. However, the exercise of line item veto authority could affect federal grants to states, federal contributions towards shared programs or projects, and the demand for state and local programs to compensate for increases or reductions in federal programs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact on this issue is Jeffrey Holland.

Sincerely,

ROBERT D. REISCHAUR, *Director*.

INFLATION IMPACT STATEMENT

Clause 2(l)(4) of rule XI requires each committee report on a bill or joint resolution of a public charter to include an analytical statement describing what impact enactment of the measure would have on prices and costs in the operation of the national economy. The Committee determines that H.R. 2 has no inflationary impact of the nation's economy.

OVERSIGHT FINDINGS

Clause 2(l)(3)(A) of rule XI requires each committee report to contain oversight findings and recommendations required pursuant to clause 2(b)(1) of rule X. Clause 2(b)(1) of rule X calls on each standing committee, other than the Committee on Appropriations and Budget, to review and study the effectiveness of laws and other matters within its jurisdiction.

The Committee makes no oversight findings or recommendations.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

Clause 2(l)(3)(D) of rule XI requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform and Oversight Committee pursuant to clause 4(c)(2) of rule X, whenever such findings have been timely submitted.

The Committee has received no such findings or recommendations.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

Clause 3 of rule XIII of the Rules of the House of Representatives requires that changes in existing law made by the bill, as reported, be included in the report.

This bill makes no direct amendments to any Act.

COMPARATIVE PRINT

Clause 4(d) of rule XI requires that, whenever the Committee on Rules reports a resolution amending or repealing the Rules of the House of Representatives, the accompanying report must contain a comparative print showing the changes in existing rules proposed to be made by the resolution.

This bill makes no direct change in any rule of the House.

VIEWS OF COMMITTEE MEMBERS

Clause 2(l)(5) of rule XI requires each committee, except the Committee on Rules, to afford a three-day opportunity for members of the committee to file additional, minority, or dissenting views and to include the views in its report. Although the requirement does not apply to the Rules Committee, the Committee always makes the maximum effort to provide its members with an opportunity to submit their views.

The following views were submitted:

ADDITIONAL VIEWS

I support passage of the Line Item Veto Act (H.R. 2), as reported by the House Committee on Rules, because it will give the Congress and the Executive Branch another important tool with which to restore fiscal responsibility to the federal budget process.

The fact that the federal debt is nearing \$5 trillion dollars, and that the federal government has run budget deficits in 33 of the past 34 years, clearly points to the need for new rules to control Congress' often indomitable appetite for spending. The Republican freshman class of the 103rd Congress recognized the need for new methods of imposing fiscal restraint when it included both a line item veto and a constitutional balanced budget amendment in its 19-point congressional reform proposal.

H.R. 2 accomplishes these essential goals in several important ways. First, the legislation enables the President to rescind all or part of any discretionary budget authority in appropriations bills or to veto any targeted tax benefit in revenue bills, and requires the President to notify the Congress of these actions in a special message. Second, the bill requires the Congress to disapprove the President's actions through appropriate legislation, allowing the line item veto to take effect automatically unless Congress acts within a specified period of time. Finally, under changes made by the House Rules Committee during its mark-up session on January 26, 1995, H.R. 2 establishes an expedited process in the House to guarantee Members the opportunity for a timely vote on disapproving a President's rescissions.

Of all the issues raised during the most recent federal elections, I firmly believe that the American people were most concerned about reducing the level of federal spending and the need to avoid saddling future generations of Americans—our children and grandchildren—with an increasingly larger debt burden. In the past, I have heard from constituents who have become disillusioned with a Congress which has consistently found ways to circumvent the few budgetary restraints it has set for itself. In my view, H.R. 2, with its expedited procedures, will help Congress and the Executive Branch effectively identify and remove unnecessary or wasteful federal spending, without unduly restricting the hand of either branch of our government in performing its duties. Perhaps more importantly, H.R. 2 places the burden on Congress to act initially to reject a President's rescission message.

While this is not the first time that the House has considered effective line item veto legislation, I am confident that the 104th Congress will not overlook this important opportunity to respond to the American public's call for a leaner, more efficient, and less costly federal government. I congratulate Chairman Solomon and the

Republican leadership for moving H.R. 2 forward in such a timely manner.

DEBORAH PRYCE.

DISSENTING VIEWS

While we understand that many members of this House, on both the majority and minority sides of the aisle, wish to see a mechanism in place that will allow for a more careful scrutiny of spending and revenue bills that are enacted, we do not believe that H.R. 2, as reported, deserves the support of the House.

Section 8 of Article I of the Constitution of the United States grants to the Legislative Branch of government the “* * * Power to lay and collect Taxes, Duties, Imports and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States * * *”.

These specifically enumerated duties granted to the Congress by the framers of the Constitution, along with the provisions of Section 9 of Article I which states “* * * no Money shall be drawn from the Treasury but in consequence of Appropriations made by Law: * * *”, have provided Congress with what has commonly come to be termed the “powers of the purse”. It is this grant of power which enables the Legislative Branch to set the spending priorities of the United States Government. Article II grants the President, or the Executive Branch, the authority to carry out the laws.

The historical conflict between the enactment of legislative proposals and their execution and implementation by the President give rise, in 1974, to the passage of the Impoundment Control Act of 1974 (Title X of the Congressional Budget and Impoundments Control Act.) At that time, former President Nixon’s use of impoundments—the refusal to fund certain Congressionally mandated programs—reordered the priorities established by the Congress under the grant of authority of Article I of the Constitution.

While a number of court challenges arose to the President’s authority to impound appropriated funds in that period, Congress decisively responded by passing the Impoundment Control Act. That Act requires the President to notify the Congress of any and all proposed rescissions and deferrals of appropriated funds and compels the President to release and expend those funds unless the Congress specifically takes action to *approve* the proposed rescission or deferral.

This requirement that the Congress take a positive action to approve the rescission or a portion thereof, preserves the integrity of the prerogatives of the Congress to control the purse which funds the activities of the Federal Government. It requires the Congress to take *affirmative* action in order for those rescissions to take effect. By taking such affirmative action, the Congress retains its authority to set the spending priorities of the government.

We believe that the grant of authority to the Congress found in Article I should not be cast aside in haste. The tension between the Executive and the Legislative branch, while difficult and some-

times burdensome, has essentially worked since it was designed by the Founding Fathers. We see no compelling reason to tamper with it at this time.

Under the terms of this bill, the President's proposed rescissions or targeted tax benefit repeals would automatically take effect unless the Congress specifically passes a resolution *disapproving* this special message. Even if Congress overturned the Administration's disapproval, the President could then veto the disapproval which, in turn, would have to be overridden by two-thirds of both Houses. Effectively, the President could cancel any spending or tax benefits with support of only a minority of the members of either House.

This approach to line-item veto legislation would result in a dramatic shift in responsibility and power from the Legislative Branch to the Executive Branch. We believe that a far more appropriate route for Presidential analysis is through an expedited rescission/targeted tax benefit measure which would provide an effective way to cut certain spending without drastically altering the carefully constructed powers between the two branches of Government. We believe that the alternative legislation offered by the Democratic Members during the markup of this bill strikes a balance in the desire to reduce Federal spending while still protecting against the Constitutional concerns raised by H.R. 2.

Our proposal would permit the President to propose to rescind all or part of any discretionary budget authority and to repeal any targeted tax provision passed by the Congress. *This request could only be enacted by approval by both Houses of Congress.* The proposal guarantees a vote on the President's proposals and establishes an expedited procedure for consideration by the Congress. Specifically, the bill would give the President twenty days after an appropriations law is enacted to submit a special message and draft a bill to rescind any portion of that law. The Congress would then determine, upon an affirmative majority vote, whether to agree to the rescission or tax benefit repeal. Failure of either House to approve the rescission/receipts repeal package would cause the release of funds or tax benefits one day after defeat in either House.

Similar legislation passed the House twice in the 103rd Congress. The House passed H.R. 1578 on April 29, 1993, by a vote of 258-157 but further progress was stalled in the Senate. The House subsequently passed a similar bill, H.R. 4600, on July 14, 1994, by a vote of 342-69. We believe that the strength of this bipartisan vote supports enacting this type of rescission process to help restore public confidence in the ability of our legislators and our chief executive to make responsible spending decisions. It will permit the President to identify—and the Congress to reconsider—individual spending and tax items to determine whether these items can stand on their own individual merit. Most importantly, the final decision would be made by a majority and not a minority vote.

We share the majority's interest in reducing unnecessary and wasteful federal spending; however, we believe that H.R. 2 in its current form proposes a dangerous—and potentially unconstitutional—grant of authority to the Executive branch. For this reason, the Democratic members opposed reporting the bill for Floor consideration. We urge Members to support our expedited rescission

procedure as a far more favorable alternative to the rescission measure reported by this Committee.

JOE MOAKLEY.
ANTHONY C. BEILENSON.
MARTIN FROST.
TONY P. HALL.

